



September 6, 2002

TO: ALL SCHOOL DISTRICTS, COUNTY SUPERINTENDENTS OF SCHOOLS AND
OTHER INTERESTED PARTIES

TITLE 2. STATE ALLOCATION BOARD

NOTICE OF PROPOSED REGULATORY ACTION

THE STATE ALLOCATION BOARD PROPOSES TO ADOPT AND AMEND
REGULATION SECTIONS, TITLE 2, CALIFORNIA CODE OF REGULATIONS
RELATING TO LEROY F. GREENE SCHOOL FACILITIES ACT OF 1998

PROPOSED AMENDMENTS TO REGULATION SECTIONS: 1859.2, 1859.74,
1859.76, 1859.77.1, 1859.81.1, 1859.90, 1859.103, AND 1859.104

REGULATION SECTIONS PROPOSED FOR ADOPTION: 1859.74.5, 1859.74.6,
1859.81.2, 1859.81.3, AND 1859.105.2

PROPOSED AMENDMENTS TO:

Application for Funding, Form SAB 50-04 (Revised 08/02), Referenced in Regulation
Sections 1859.2, 1859.21, 1859.50, 1859.70, 1859.73.1, 1859.73.2, 1859.74.1,
1859.75.1, 1859.76, 1859.78.2, 1859.79.3, 1859.81, 1859.81.1, 1859.82, 1859.100,
1859.101, 1859.102, AND 1859.107

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend and adopt the above-referenced regulation sections contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the OPSC, at its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amend these regulations under the authority provided by Sections 17070.35, 17072.13, and 17075.15 of the Education Code. The proposals interpret and make specific reference to Sections 17070.35, 17070.51, 17070.63, 17072.12, 17072.13, 17072.20, 17072.30, 17072.33, 17072.35, 17074.15, 17076.10, 17077.10, and 17251 of the Education Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The SAB adopted regulations to implement the Leroy F. Greene School Facility Act of 1998, which were approved by the Office of Administrative Law and filed with the Secretary of State on October 8, 1999. Adoptions and amendments to these regulations are being proposed.

Existing Regulation Section 1859.2 represents a set of defined words and terms used exclusively for these regulations. The proposed amendments provide additional specific terms essential to these regulations.

Existing Regulation Section 1859.74 establishes an additional grant amount for allowable site acquisition costs. The proposed amendment includes an exception for qualifying for an additional grant for site acquisition cost.

Proposed adoption of Regulation Section 1859.74.5 allows a new construction additional grant for a district-owned site based on the appraised value, under certain conditions.

Proposed adoption of Regulation Section 1859.74.6 provides direction on the development of the cost benefit analysis required on the merits of using a district-owned site.

Existing Regulation Section 1859.76 establishes additional grant amounts for allowable site development costs, requires the district to submit a detailed cost estimate, and establishes the standards for reasonableness of costs. It also defines the components for parking structures in a project. The proposed amendment provides clarification to the definition of a qualifying parking structure.

Existing Regulation Section 1859.77.1 establishes the required amount for the district's matching share for new construction grants, new construction additional grants, facility hardship grants, and excessive cost hardship grants. The proposed amendment provides an exception to the district matching share requirement for the additional funding provided for certain district-owned sites.

Existing Regulation Section 1859.81.1 specifies the limits for separate grant amounts for those districts meeting the financial hardship requirements, provides for an off-set in certain circumstances, and establishes the procedure for a district seeking a separate apportionment. The proposed amendment provides an exception to the required financial hardship criteria for a separate apportionment for site acquisition or design costs.

Proposed adoption of Regulation Section 1859.81.2 allows financial hardship districts to receive a separate apportionment for district-owned site acquisition costs, even when there is no district matching share requirement.

Proposed adoption of Regulation Section 1859.81.3 provides specificity as to the use of a district-owned site acquisition apportionment.

Existing Regulation Section 1859.90 provides a mechanism for the release of new construction and modernization funds, and specifies a timeframe for the release of State funds. The proposed amendment provides an exception to the fund release of a district-owned site acquisition apportionment.

Existing Regulation Section 1859.103 identifies School Facility Program (SFP) project savings, and establishes when and how the savings may be utilized. It also specifies how interest earned on financial hardship projects will be treated. The proposed amendment identifies another component for which project savings may be used towards, and provides an exception to the required use of savings that reduces the financial hardship grant for apportionments made for district-owned site acquisition.

Existing Regulation Section 1859.104 provides a mechanism for a district to report all relevant SFP project information. It also requires a district to submit a progress report 12 months from the date site acquisition funds were apportioned. The proposed amendments provide specificity regarding reporting requirements for district-owned site acquisition apportionments.

Proposed adoption of Regulation Section 1859.105.2 provides accountability requirements for district-owned site acquisition apportionments.

Existing Form SAB 50-04, *Application for Funding*, is used when a district is seeking funding for a new construction or modernization project. It is being amended to incorporate language that is consistent with Sections 1859.74.5, 1859.74.6, and 1859.81.2, noted above. The revision date is being changed in every regulation section that references this form.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the state pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.

ECONOMIC IMPACT

The Executive Officer of the SAB has assessed the potential for significant adverse economic impact on businesses or private persons that might result from the proposed regulatory action and the following determinations have been made relative to the required statutory categories:

The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. There will be no impact on the creation or elimination of jobs within the state, the creation of new businesses or the elimination of existing businesses or the expansion of businesses in California.

The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

There will be no non-discretionary costs or savings to local agencies.

There will be no costs to school districts except for the required district contribution toward each project as stipulated in statute.

There will be no costs or savings in federal funding to the state.

There are no costs or savings to any State agency.
The SAB had made an initial determination that there will be no impact on housing costs.

EFFECT ON SMALL BUSINESSES

It has been determined that the adoption of the regulation sections will not affect small businesses in the ways identified in subsections (a)(1)-(4) of Section 4, Title 1, CCR. These regulations only apply to school districts for purposes of funding school facility projects.

SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax, must be received at the Office of Public School Construction (OPSC) no later than October 21, 2002 at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Lisa Jones, Regulations Coordinator

Mailing Address: Office of Public School Construction
1130 K Street, Suite 400
Sacramento, CA 95814

E-mail Address: lisa.jones@dgs.ca.gov

Fax No.: (916) 445-5526

AGENCY CONTACT PERSONS

Questions regarding this Notice of Proposed Regulatory Action may be directed to Lisa Jones at (916) 322-1043. If Ms. Jones is unavailable, questions may be directed to the backup contact person, Dennis Boydston, at (916) 322-0327.

ADOPTION OF REGULATIONS

Please note that following the public comment period, the SAB may adopt the regulations substantially as proposed in this notice or with modifications which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations. The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for

copies of any modified regulation should be addressed to the agency's regulation coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.

SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in strikeout/underline.
2. A copy of this notice.
3. A copy of the Initial Statement of Reasons
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments is received, they will be added to the rulemaking file. The file is available for public inspection at the OPSC during normal working hours. Items 1 through 3 are also available on the OPSC Internet Web site at: <http://www.opsc.dgs.ca.gov> under "Regulations," then click on "Proposed Regulations."

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the SAB must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SAB would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency's regulation coordinator named in this notice or may be accessed on the Web site listed above.